



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



276905

MEMORANDUM

REPLY TO THE ATTENTION OF:

DATE: OCT 09 2007

SUBJECT: ACTION MEMORANDUM - Request for Approval to Initiate a Time-Critical Removal Action and an Exemption from the \$2 Million Statutory Limit at the Trinity Site, Cleveland, Cuyahoga County, Ohio (Site ID #B5KJ)

FROM: Joseph Fredle, On-Scene Coordinator
Emergency Response Branch 1 – Removal Section 1

TO: Ralph Dollhopf, Acting Director
Superfund Division

THRU: Jason H. El-Zein, Acting Chief
Emergency Response Branch 1

I. PURPOSE

The purpose of this memorandum is to request and document your approval to expend up to \$5,759,000 to abate an imminent and substantial threat to public health and the environment at the Trinity Site ("the Site"), 9203 Detroit Ave., Cleveland, Cuyahoga County, Ohio 44102. The City of Cleveland Land Reutilization Program ("CLRP") acquired the Site on November 12, 2004. Demolition was initiated at the Site in fall 2006 as part of a Brownfields project funded in part by the State of Ohio and U.S. EPA. The Site is enrolled in the State of Ohio Environmental Protection Agency Voluntary Action Program. The City's funding for the project has depleted and on May 16, 2007, they formally requested the United States Environmental Protection Agency's (U.S. EPA) assistance to continue this activity through a U.S. EPA Brownfields Program employee detailed to the City of Cleveland.

The response action proposed herein will mitigate threats to public health, welfare, and the environment posed by the presence of uncontrolled hazardous wastes and substances located in the concrete and soil of a former aluminum foundry at the Site. The hazardous substance that has been confirmed to be present at the Site is polychlorinated biphenyls (PCBs). Mercury may also be present at the Site. Proposed removal actions include the complete assessment of the chemical hazards at the Site (including all areas where hazardous substances have been deposited, stored, disposed of, placed, or otherwise come to be located, including adjacent residential parcels, as appropriate), removal and stabilization of the hazardous wastes and

substances, and offsite disposal of the hazardous wastes and substances. The uncontrolled condition of the abandoned waste and substances on the Site, the migration of PCBs offsite on to the residential property to the west, the potential for hazardous substances to continue to migrate offsite, the unrestricted access to the property, the evidence that the Site is frequented by trespassers, and the Site's proximity to residential areas require that this removal be classified as time-critical.

The project will require an estimated 80 onsite working days to complete. This Site is not on the National Priorities List. There are no nationally significant or precedent-setting issues associated with the response.

II. SITE CONDITIONS AND BACKGROUND

Time-critical removal action, CERCLIS ID #OHN 000 510 223

A. Site Description

1. Removal Site evaluation

Phases I and II of the Removal Site Assessment have been completed, and an Interim Progress Report for the Removal Site Assessment has been issued. Phase III of the removal site assessment is underway, but is not yet completed and therefore was not considered or relied upon for this Action Memorandum.

The Site is approximately 5.6 acres and is in a trapezoid shape. In the south west corner is an area known as the "West Pad", which is the foundation of one of the demolished buildings. The mid-section of the Site contains the "North Rubble Pile to the north, the "East Pad" in the middle, and the "South Crushed Concrete Pile" to the south. On the east side of the Site is the "East Crushed Concrete Pile."

Sampling performed by U.S. EPA confirmed the high PCB concentrations in the concrete slab onsite and found soil contamination as high as 5,700 parts per million (ppm) near the slab. Piles of concrete rubble and crushed concrete onsite were also found to be contaminated with 15 to 78 ppm PCBs. It was also determined that PCBs had migrated to the residential area to the west of the Site at concentrations as high as 11 ppm.

2, Physical location

The Site is located along the south side of Detroit Avenue in a mixed industrial and residential portion of the City of Cleveland. A residential apartment complex is situated adjacent to and to the west of the Site; an industrial manufacturing facility is located on the property situated adjacent to and to the east of the Site; Norfolk Southern Railroad and Cuyahoga County Regional Transit Authority (RTA) commuter rail lines are situated to the south of the Site.

In Ohio, the low income percentage is 30 and the minority percentage is 16. To meet the environmental justice (EJ) concern criteria, the area within 1 mile of the Trinity Site must have a population that is twice the state low income percentage and/or twice the state minority percentage. That is, the area must be at least 60 percent low income and/or 32 percent minority. At the Trinity Site, the low income percentage is 60 percent and the minority is 39 percent as determined by the Landview III EJ analysis, see attachment 4. Therefore, this Site does meet the Region's EJ criteria based upon demographics as identified in "Region 5 Interim Guidelines for Identifying and Addressing a Potential EJ Case, June 1998."

3. Site characteristics

For over 50 years, the Site was the home of Club Aluminum/Monarch Aluminum Products, which employed over 500 people. The company manufactured aluminum consumer products (pots, pans and serving trays), including industrial products and materials. During World War II, part of the facility was used to manufacture magnesium flares for the war effort. The company was acquired by an out-of-state company and abandoned in the early 1980s. During the next 20 years, the Site was used for various purposes, including automobiles and materials storage.

In 1994, the City of Cleveland notified the property owner of serious fire code violations. In 1998, while the City was working with the property owner to address the violations, a massive fire destroyed a large portion of the building. After numerous failed attempts by the City to assist the owner with compliance, the Fire Department issued a notice of violation, citing an imminent peril to public health and safety. The Cleveland Municipal Court condemned the structure and ordered that it be vacated. After 3 years of crime, neglect, public nuisance, blight, unpaid property taxes, and illegal dumping at the Site, the City of Cleveland acquired the Site in November of 2004, apparently through tax foreclosure proceedings.

In 2004, the City conducted Voluntary Action Program (VAP) compliant Phase II work and risk assessment at the Site and prepared a Remedial Action Plan. In the Spring of 2005, the City published a bid for the asbestos abatement, demolition, and environmental cleanup of soil at the property as a Brownfields project. In July of 2006, they selected a contractor and work under the demolition and cleanup contract began the last week of July 2006. During the Brownfields project activities, an unexpected area of PCB contamination was found along the south side of the Site and removed. This discovery prompted additional sampling that found very high concentrations (10,700 ppm) of PCBs in the concrete slab that remains onsite.

The property is surrounded by a security fence that is in marginal condition with a number of breaches in it. There have been recent cases of unauthorized entry at the Site.

4. Release or threatened release into the environment of a hazardous substance, or pollutant or contaminant

There is a hazardous substance onsite as defined by CERCLA Section 101(14): PCBs. Sampling and analysis related to the Site is provided in the Administrative Record for this Action Memorandum. The sampling and analysis shows the following:

onsite sampling
concrete slab - up to 10,700 ppm PCBs
soils – up to 5,700 ppm PCBs
concrete rubble and crushed concrete – up to 78 ppm PCBs

offsite sampling
residential soils – up to 11 ppm PCBs

It appears that PCB-contaminated materials seeped into the concrete slab supporting the buildings. PCB-contaminated materials may have then seeped from the concrete slab into soils at the Site. PCB-contaminated soils and PCB-contamination at the Site likely migrated offsite due to run-off, air dispersion, tracking by trespassers and during demolition. PCB-contaminated sediment in sewers at the Site may migrate during heavy precipitation events. Direct exposure to PCB-contaminated materials from the Site may occur in several ways: trespassers accessing the soils and rubble piles at the Site; pedestrians (particularly those using the bus stops on located just north of the Site) passing near the Site on windy days, and; persons coming into contact with the soil in their yards.

5. NPL Status

The Site is not on the NPL.

B. Other Actions to Date

1. Previous actions

As noted above, during the Brownfields project activities, an unexpected area of PCB contamination was found along the south side of the Site and removed. This discovery prompted additional sampling that found very high concentrations (10,700 ppm) of PCBs in the concrete slab that remains onsite.

Phases I and II of the Removal Site Assessment have been completed, and an Interim Progress Report for the Removal Site Assessment has been issued.

2. Current actions

Phase III of the Removal Site Assessment is currently underway at the Site.

C. State and Local Authorities' Roles

1. State and local actions to date

The Brownfields activities at this Site were funded in part by the State of Ohio and were conducted by the City of Cleveland.

2. Potential for continued State/local response

At this point, the City had spent most of their Brownfields funds for this Site and requested assistance from the U.S. EPA. Ohio EPA has also indicated that funding for response actions at this Site are not available.

III. THREATS TO PUBLIC HEALTH OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES

The conditions at the Trinity Site constitute a threat to public health and welfare or the environment based upon the considerations set forth in the National Contingency Plan (NCP), 40 CFR § 300.415 (b)(2) which include, but are not limited to, the following:

1) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

The Site is situated in a high traffic, mixed industrial-residential area; with a residential complex immediately to the west of the Site. Onsite sampling has found PCB levels as high as 10,700 ppm in concrete slab, 5,700 ppm in soils and 78 ppm in piles of concrete rubble and crushed concrete. Offsite sampling has found PCB levels as high as 11 ppm on the residential properties at the western edge of the Site, near the fence line. Likely exposure routes include use of yards at residential properties, and the heavy use of the sidewalk to the immediate north of the Site, where several bus stops are located. Additionally, there have been several incidents of trespass reported at the Site, where high levels of PCBs are present. There currently is no security onsite other than the Site fence. The fence is in marginal condition with numerous breaches.

2) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate;

As stated above, PCBs have migrated offsite to residential properties. Sampling at the Site by the U.S. EPA and the City of Cleveland has found PCB levels as high as 10,700 ppm in concrete slab, 5,700 ppm in soils and 78 ppm in piles of concrete rubble and crushed concrete. With such high concentrations of contamination onsite, it is highly probable that offsite migration via wind dispersion, precipitation run-off, and tracking by trespassers will continue.

3) Weather conditions that may cause hazardous substances or pollutants or

contaminants to migrate or be released;

Northeast Ohio typically exhibits frequent precipitation and high wind events in the fall, winter, and spring months. Heavy precipitation will cause additional migration offsite via run-off and heavy sewer flow. Sewers onsite have been documented to contain PCB levels as high as 770 ppm in their sediments, and this could be migrating further down the sewers during periods of heavy precipitation. The Site also contains four large piles of concrete rubble, two of which are crushed concrete with some small particle sizes that could be subject to being wind blown in a strong enough wind. Samples from these piles exposed to wind show PCB contamination that ranges from 15 to 78 ppm and thus the piles are additional potential paths of offsite migration.

IV. ENDANGERMENT DETERMINATION

The Trinity Site conditions include lack of a secure environment and an uncontrolled release of hazardous wastes and substances. The threats to human health and the environment at the Trinity Site, which have been confirmed through laboratory analysis, include the presence of PCBs. The potential exposure pathways to nearby populations and the environment, as described in Sections II and III above, are magnified because there is no security onsite. In addition, the transport mechanisms of wind and precipitation present a potential for hazardous substance migration offsite. The actual and threatened releases of hazardous substances from this Site, if not addressed by implementing the response action selected in this Action Memorandum, present an imminent and substantial endangerment to public health, or welfare, or the environment.

V. EXEMPTION FROM STATUTORY LIMITS**Emergency Exemption:**

Section 104(c) of CERCLA as amended by SARA, limits a Federal emergency response to \$2 million unless three criteria are met. The quantities and levels of hazardous substances (PCBs) found at the Trinity Site warrant the \$2 million exemption based on the following factors:

- A. There is an immediate risk to public health or welfare or the environment;

Refer to Section IV above.

- B. Continued response actions are immediately required to prevent, limit, or mitigate an emergency;

As described in Section III above, conditions at the Site are such that the offsite migration of PCBs has already been documented and may possibly continue.

C. Assistance will not otherwise be provided on a timely basis.

As described in Section III above, both the City of Cleveland and the Ohio EPA have indicated that funding is not available.

VI. PROPOSED ACTIONS AND ESTIMATED COSTS

The hazardous wastes and substances near residential areas in an unsecured Site with signs of public trespass and offsite migration must be addressed.

The On-Scene Coordinator (OSC) specifically proposes to undertake the following actions to mitigate threats posed by the presence of hazardous wastes at the Trinity Site:

- 1) Develop and implement a Site-specific health and safety plan;
- 2) Provide Site security measures which may include, but not be limited to, security guard service and repair and/or replace damaged fencing;
- 3) Continue to assess the Site for PCB, mercury, and heavy metal-contaminated materials;
- 4) Determine the extent of onsite contamination in surface/sub-surface soils and around/under/in the concrete piles and slab;
- 5) Determine the extent of offsite contamination on the surrounding properties as a result of past and current uncontrolled releases of hazardous substances from the Site;
- 6) Remove and characterize contaminated materials from the Site and offsite migration areas;
- 7) Transport and dispose of hazardous substances/hazardous waste at an EPA-approved disposal facility in accordance with U.S. EPA's Offsite Rule, 40 CFR § 300.440; and

The removal action will be taken in a manner not inconsistent with the National Contingency Plan (NCP). The OSC has initiated planning for provision of post-removal Site control consistent with the provisions of Section 300.415(1) of the NCP. USEPA will use 1ppm PCB as a cleanup goal for residential soils based on U.S. EPA guidance entitled "Guidance for Remedial Actions for Superfund Sites with PCB Contamination" (EPA/540/G-90/007, August 1990). The onsite cleanup goal is based on the City of Cleveland's stated intention that the future use of the Site will be commercial/industrial. Additionally, the U.S. EPA guidance referenced above recommends a remediation goal

of 10 to 25 ppm for sites where non-residential land use is anticipated.

All hazardous substances, pollutants, or contaminants removed offsite pursuant to this removal action for treatment, storage or disposal shall be treated, stored, or disposed of at a facility in compliance, as determined by U.S. EPA, with the U.S. EPA Offsite Rule, 40 CFR § 300.440.

The response actions described in this memorandum directly address actual or threatened releases of hazardous substances, pollutants, or contaminants at the Site which may pose an imminent and substantial endangerment to public health and safety and to the environment. These response actions do not impose a burden on the affected property disproportionate to the extent to which that property contributes to the conditions being addressed.

The estimated costs to complete the above activities are summarized below. These activities will require an estimated 80 onsite working days to complete. Detailed cleanup contractor costs are presented in Attachment 1.

REMOVAL PROJECT CEILING ESTIMATE

EXTRAMURAL COSTS:

Regional Removal Allowance Costs:

Total Cleanup Contractor Costs	\$4,599,000
(This cost category includes estimates for ERRS, and subcontractors. Includes a 15% contingency.)	

Other Extramural Costs Not Funded from the Regional Allowance:

Total START, including multiplier costs	<u>\$ 200,000</u>
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Subtotal, Extramural Costs	\$4,799,000
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Extramural Costs Contingency (20% of Subtotal, Extramural Costs)	<u>\$ 960,000</u>
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TOTAL, REMOVAL ACTION PROJECT CEILING	\$5,759,000
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All applicable or relevant and appropriate requirements (ARARs) of Federal and State law will be complied with to the extent practicable. A letter was sent to Mr. Rodney Beals of the Ohio EPA on September 7, 2007, requesting that he identify State ARARs. Any State ARARs identified in a timely manner for this removal action will be complied with to the extent practicable.

VII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN

Delayed or non-action may result in an increased likelihood of direct contact threat to human populations accessing the Site via airborne contaminants, run-off or direct contact by trespassers.

VIII. OUTSTANDING POLICY ISSUES

There are no outstanding policy issues associated with this Site.

IX. ENFORCEMENT

For administrative purposes, information concerning the enforcement strategy for this Site is contained in an Enforcement Confidential Addendum.

The total EPA costs for this removal action based on full-cost accounting practices that will be eligible for cost recovery are estimated to be \$9,183,328.¹

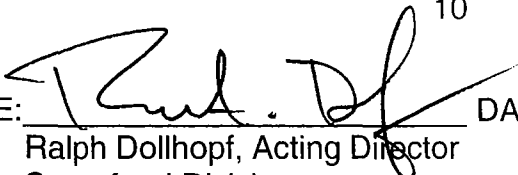
$$(\$5,759,000 + \$160,000) + (55.15\% \times \$5,919,000) = \$9,183,328$$

X. RECOMMENDATION

This decision document represents the selected removal action for the Trinity Site, Cleveland, Cuyahoga County, Ohio, developed in accordance with CERCLA as amended, and not inconsistent with the NCP. This decision was based upon the administrative record for the Site. Conditions at the Site meet the NCP Section 300.415(b) criteria for a removal and I recommend your approval of the proposed removal action. The total removal action project ceiling if approved will be \$5,759,000.

Of this, an estimated \$5,559,000 comes from the Regional removal allowance. You may indicate your decision by signing below:

¹ Direct Costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual total costs from this estimate will affect the United States' right to cost recovery.

APPROVE:  ¹⁰ DATE: 10/9/07
Ralph Dollhopf, Acting Director
Superfund Division

DISAPPROVE: _____ DATE: _____
Ralph Dollhopf, Acting Director
Superfund Division

Enforcement Addendum

Attachments:

1. Detailed Cleanup Contractor Estimate
2. Administrative Record Index
3. Independent Government Cost Estimate
4. Region 5 Environmental Justice Analysis

cc: D. Chung, U.S. EPA, 5202-G
M. Chezick, U.S. Department of the Interior, **w/o Enf. Addendum**
Chris Korleski, Director, Ohio EPA, **w/o Enf. Addendum**
Marc Dann, Ohio Attorney General, **w/o Enf. Addendum**

ENFORCEMENT ADDENDUM
TRINITY SITE
a/k/a 9203-08 Detroit Avenue, Cleveland
CLEVELAND, CUYAHOGA COUNTY, OHIO
SEPTEMBER 2007

(REDACTED 1 PAGE)

ENFORCEMENT CONFIDENTIAL
NOT SUBJECT TO DISCOVERY

ATTACHMENT 1

**DETAILED CLEANUP CONTRACTOR ESTIMATE
TRINITY SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO
SEPTEMBER 2007**

Personnel and Equipment	\$ 560,000
Transportation and Disposal - > 50 ppm	\$2,250,000
- < 50 ppm	\$1,155,000
Site Support (trailer, security)	<u>\$ 34,000</u>
TOTAL	\$3,999,000



ATTACHMENT 2

U.S. ENVIRONMENTAL PROTECTION AGENCY REMOVAL ACTION

ADMINISTRATIVE RECORD FOR TRINITY SITE CLEVELAND, CUYAHOGA COUNTY, OHIO

ORIGINAL
SEPTEMBER 10, 2007

<u>NO.</u>	<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
1	05/15/07	HzW Environmental Consultants	U.S. EPA	Polychlorinated Biphenyl Sampling Data at the Trinity Site w/Attached Location Maps	2
2	05/16/07	Furio, P., U.S. EPA	El-Zein, J., U.S. EPA	E-mail Transmission re: Site Conditions and Back- ground Information for the Trinity Site	8
3	09/13/07	Beodray, F., Weston Solutions, Inc.	Fredle, J., U.S. EPA	Site Assessment Report for the Trinity Site	41
4	09/28/07	Johnson, M., ATSDR	Fredle, J., U.S. EPA	Letter re: Response to U.S. EPA Request for a Health Opinion Regarding Offsite Soil Cleanup Cri- teria of 1 ppm per Total PCBs at the Trinity Site	1
5	00/00/00	Fredle, J., U.S. EPA	Karl, R., U.S. EPA	Action Memorandum: Request for Approval to Initiate a Time-Critical Removal Action and an Exemption from the \$2 Million Statutory Limit at the Trinity Site (PENDING)	

ATTACHMENT 3

**INDEPENDENT GOVERNMENT COST ESTIMATE
TRINITY SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO**

SEPTEMBER 2007

NOT RELEVANT TO THE SELECTION OF THE REMOVAL ACTION

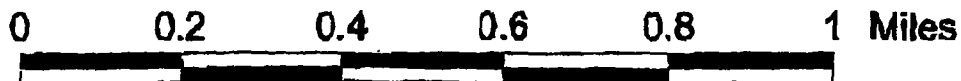
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ATTACHMENT 4

REGION V ENVIRONMENTAL JUSTICE ANALYSIS

**TRINITY SITE
CLEVELAND, CUYAHOGA COUNTY, OHIO
SEPTEMBER 2007**

JUN-19-2007 14:53 FROM:USEPA REGION 5



Low Income: 60% or greater

Source: H. Abbe, *Germany 1800-1840*. Dordrecht: Kluwer, 1988. Pp. 311.